TESTIMONY OF ATTORNEY GENERAL MIKE COX
IN OPPOSITION TO
HB 6034, HB 6035, HB 6036, AND HB 6037
and
SB 1242, SB 1243, SB 1244, AND SB 1245

June 16, 2010, Senate Health Policy Committee
Senators: George (C), Allen (VC), Patterson, Sanborn, Clarke (MVC), Gleason, and Jacobs,

Honorable Chair, Members of the Committee:

GOOD MORNING/AFTERNOON. I WOULD LIKE TO START BY THANKING YOU FOR PROVIDING ME WITH THIS OPPORTUNITY TO EXPRESS MY GRAVE CONCERNS OVER THIS PACKAGE OF BILLS, WHICH IN MY VIEW THREATEN THE FUTURE OF AFFORDABLE HEALTH CARE INSURANCE IN MICHIGAN. ONCE AGAIN, THESE BILLS—IN THE NAME OF "REFORM"—WILL ADVERSELY AFFECT THE CITIZENS OF THIS STATE, PARTICULARLY THOSE WHO ARE MOST VULNERABLE, SUCH AS THE ELDERLY AND THOSE WITH CHRONIC OR SERIOUS ILLNESSES. I APPRECIATE THE WORK OF SENATOR GEORGE AND REPRESENTATIVE CORRIVEAU TO BRING THE VARIOUS INTEREST GROUPS TOGETHER TO WORK ON THESE BILLS. HOWEVER, DESPITE THESE BEST EFFORTS AND INTENTIONS, WE ARE LEFT WITH A BILL THAT HAS LITTLE SUPPORT FROM ANYONE OTHER THAN BLUE CROSS BLUE SHIELD OF MICHIGAN.

THESE BILLS WERE INTRODUCED UNDER THE GUISE OF CONSUMER PROTECTIONS, MARKETPLACE REFORMS, AFFORDABILITY, AND MAKING

MICHIGAN HEALTHIER. AS PROPOSED, THESE BILLS WILL INSTEAD ELIMINATE MANY IMPORTANT CONSUMER PROTECTIONS, REDUCE COMPETITION FOR INDIVIDUAL INSURANCE , MAKE HEALTH CARE UNAFFORDABLE FOR MANY OF THE PEOPLE WHO NEED IT THE MOST, AND PUNISH THOSE IN MICHIGAN WHO ARE UNHEALTHY, OLDER, AND DISABLED. ONCE AGAIN, THESE SO CALLED "REFORMS" PLACE THE PROFITS OF BLUE CROSS BLUE SHIELD OVER THE BEST INTERESTS OF THE PEOPLE OF THIS STATE, WHO BY LAW BLUE CROSS IS REQUIRED TO SERVE.

WHEN THIS LEGISLATION IS SUBJECTED TO A COST / BENEFIT ANALYSIS, THE COSTS FAR OUTWEIGH ANY BENEFITS. THE BILLS MODIFY EXISTING LAW BY REDUCING THE PRE-EXISTING CONDITION EXCLUSION TO 6 MONTHS, EXTENDING DEPENDENT COVERAGE TO AGE 26, PROTECTING AGAINST RESCISSION OF COVERAGE, GUARANTEEING RENEWABILITY AT RATES THAT DON'T CONSIDER CHANGES IN HEALTH CONDITION, AND CREATING TWO "GUARANTEED ISSUE" PLANS FOR HIGH-RISK PEOPLE. UNFORTUNATELY, THESE REFORMS FALL UNDER THE CATEGORY OF BEING "A DAY LATE AND A DOLLAR SHORT."

THE REFORMS ARE TOO LATE BECAUSE EACH OF THESE BENEFITS IS ALREADY PROVIDED FOR IN THE RECENT FEDERAL HEALTH CARE LEGISLATION. ALTHOUGH I AM CHALLENGING PORTIONS OF THE FEDERAL LAW ON CONSTITUTIONAL GROUNDS, THAT CHALLENGE IS FAR FROM OVER

AND THE FEDERAL REFORMS ARE CURRENTLY THE LAW OF THE LAND. CONSEQUENTLY, THESE STATE-LEVEL BILLS OFFER NO ADDITIONAL OR INCREMENTAL BENEFIT TO MICHIGAN CITIZENS. AT WORST, THEY MAY FORCE MICHIGAN CITIZENS TO PAY TWICE FOR THE SAME BENEFITS, BOTH AT THE STATE AND FEDERAL LEVELS.

SOME SAY THE REFORMS ARE NEEDED TO BRIGE THE GAP UNTIL THE FEDERAL LAW FULLY KICKS IN 2014. BUT WE NEED TO REMEMBER THAT MOST OF THE BENEFITS THESE BILLS PROVIDE ARE ALREADY SECURED TO OUR RESIDENTS THROUGH THE HISTORIC CREATION OF A NONPROFIT HEALTH CARE CORPORATION CALLED BLUE CROSS BACK IN 1939. BLUE CROSS ALREADY GUARANTEE ISSUES COVERAGE TO MICHIGAN CITIZENS AS MICHIGAN'S INSURER OF LAST RESORT. SIMILARLY, BLUE CROSS DOES NOT RE-UNDERWRITE SUBSCRIBERS AT RENEWAL BECAUSE IT CANNOT UNDERWRITE BASED ON HEALTH CONDITION AT ALL.

THE BILLS ARE A DOLLAR SHORT BECAUSE ONCE THE DUPLICATIVE BENEFITS ARE STRIPPED OUT OF THESE BILLS, ALL THAT REMAINS ARE BENEFITS TO BLUE CROSS THAT WILL COST SUBSCRIBERS MORE MONEY. TO UNDERSTAND THAT ONLY BLUE CROSS WILL BENEFIT, AND TO SEE THAT THESE BILLS WOULD MAKE BLUE CROSS INDISTINGUISHABLE FROM A FOR-PROFIT INSURANCE COMPANY, ONE HAS TO UNDERSTAND THE HISTORICAL BACKGROUND BEHIND THE CREATION OF BLUE CROSS. BLUE CROSS IS NON-

PROFIT, CHARITABLE AND BENEVOLENT HEALTH CARE CORPORATION. IT IS NOT A FOR-PROFIT INSURANCE COMPANY THAT NEEDS TO COMPETE LIKE A PRIVATE BUSINESS TO SURVIVE IN THE MARKETPLACE. UNLIKE MOST PRIVATE BUSINESSES, BLUE CROSS WAS FORMED WITHOUT ANY INVESTMENT FROM ENTREPRENEURS. IT HAS NO SHAREHOLDERS TO ANSWER TO. IN CREATING BLUE CROSS, THE LEGISLATURE AND THE PEOPLE GAVE BLUE CROSS A GIFT THAT IT BESTOWS ON NO OTHER INSURANCE BUSINESS. IT MADE BLUE CROSS TOTALLY EXEMPT FROM ALL STATE AND LOCAL TAXATION. WHAT IS THIS GIFT WORTH? ESTIMATES RANGE FROM BETWEEN $75 AND $112 MILLION EACH AND EVERY YEAR! TO EMPHASIZE THIS POINT, BLUE CROSS PAYS NO STATE PREMIUM TAXES, NO SALES AND USE TAXES, NO OTHER BUSINESS TAXES. BLUE CROSS DOESN'T EVEN PAY TAXES ON THE PROPERTY IT OWNS TO SUPPORT LOCAL COMMUNITIES AND SCHOOLS.

THIS GIFT WAS NOT GRANTED WITHOUT SOMETHING IN RETURN. THE BARGAIN STRUCK WAS THAT IN EXCHANGE FOR BLUE CROSS' TAX EXEMPTION IT IS EXPECTED TO PROVIDE AFFORDABLE HEALTH CARE COVERAGE TO ALL MICHIGAN RESIDENTS. BLUE CROSS HAS NOT ONLY SURVIVED BUT HAS THRIVED UNDER THIS SYSTEM, ACCUMULATING CLOSE TO $3 BILLION IN SURPLUS AND CORNERING OVER 70% OF THE COMMERCIAL HEALTH INSURANCE MARKET IN MICHIGAN.

ALTHOUGH THIS BARGAIN HAS HISTORICALLY WORKED WELL FOR BOTH BLUE CROSS AND MICHIGAN CITIZENS, THESE BILLS SEEK TO CHANGE THE DEAL BY ALLOWING BLUE CROSS TO ABANDON ITS HISTORIC MISSION WHILE RETAINING ALL THE BENEFITS OF ITS TAX-FREE STATUS. THE EFFECT OF THESE BILLS IS THAT IT FORCES OTHER, INVESTOR OWNED AND FULLY TAXED INSURANCE COMPANIES TO OFFER THE SAME BENEFITS AS BLUE CROSS BLUE SHIELD, THUS GIVING BCBSM AN UNFAIR ADVANTAGE OVER ITS FOR-PROFIT COMPETITORS.

CONSUMER PROTECTIONS

THE SINGLE MOST DEVASTING EFFECT OF THESE BILLS IS THE ELIMINATION OF THE DEPARTMENT OF ATTORNEY GENERAL'S OVERSIGHT OF BLUE CROSS RATE INCREASE REQUESTS. JUST LAST YEAR, I WAS ABLE TO USE THIS OVERSIGHT TO SAVE MICHIGAN CITIZENS OVER $240 MILLION BY REDUCING BLUE CROSS' NONGROUP AND GROUP CONVERSION RATE INCREASES FROM 56% AND 42%, RESPECTIVELY, TO 22%. IN ADDITION, MY OVERSIGHT REDUCED BLUE CROSS' MEDIGAP RATE INCREASE FROM 36% TO JUST 3.8%.

MAKE NO MISTAKE: CONTRARY TO WHAT ANYONE SAYS, THESE BILLS DO ELIMINATE THE ATTORNEY GENERAL'S TIME-HONORED AND PROVEN OVERSIGHT OF BLUE CROSS RATE INCREASE REQUESTS. ALTHOUGH THEY

PURPORT TO "SAVE" OVERSIGHT FOR TWO GRANDFATHERED NONGROUP AND GROUP CONVERSION PLANS AND EXISTING MEDIGAP PLANS, ANY NEW NONGROUP, GROUP CONVERSION, OR MEDIGAP PLAN INTRODUCED AFTER MARCH 31, 2009 IS COMPLETELY FREE FROM ANY ATTORNEY GENERAL OVERSIGHT. BLUE CROSS CAN RAISE RATES FOR THESE NEW PLANS JUST LIKE A COMMERCIAL INSURANCE COMPANY. BLUE CROSS CAN ALSO CLOSE THE GRANDFATHERED PLANS TO NEW SUBSCRIBERS, WHICH WITHOUT AN INFLUX OF NEW AND HEALTHY SUBSCRIBERS, WILL INEVITABLY CAUSE THESE PLANS TO BE UNAFFORDABLE. IN SHORT TIME, THE GRANDFATHERED PLANS WILL NO LONGER EXIST AND BLUE CROSS WILL BE ABLE TO RAISE RATES WITH IMPUNITY, FREE FROM ANY CHALLENGE BY THE ATTORNEY GENERAL.

IN ADDITION, EVEN THOUGH THE BILLS "PRESERVE" OVERSIGHT FOR THE GRANDFATHERED PLANS, THEY SO SEVERELY LIMIT THE RATE HEARING PROCESS THAT BLUE CROSS WILL STILL HAVE A FREE PASS TO RAISE RATES ON THESE PLANS WITHOUT ANY MEANINGFUL CHALLENGE.

FIRST, THESE BILLS REQUIRE AN ENTIRE HEARING ON A BLUE CROSS RATE INCREASE REQUEST TO BE COMPLETED IN 30 DAYS. THIS INCLUDES ALL DISCOVERY, TESTIMONY, BRIEFING, AND THE HEARING OFFICER'S PROPOSAL FOR DECISION. FROM START TO FINISH, 30 DAYS TOTAL. AS ANY ATTORNEY KNOWS, THIS IS IMPOSSIBLE--AT LEAST IF THE PROCESS IS

TRULY INTENDED TO ARRIVE AT RATE INCREASES THAT ARE "EQUITABLE, ADEQUATE, AND NOT EXCESSIVE." AS EVIDENCE THAT A 30-DAY RATE HEARING IS UNHEARD OF RECALL THAT UNDER THE RECENTLY PASSED UTILITY REFORMS, THOSE EXPEDITED HEARINGS ON GENERAL RATE CASES MUST BE COMPLETED IN 12 MONTHS. THE SHORTCHANGED PROCESS IN THESE BILLS IS WORSE THAN NO HEARING AT ALL, BECAUSE IT CREATES AN ILLUSION OF OVERSIGHT AND PROVIDES FALSE HOPE OF MEANINGFUL, OBJECTIVE REVIEW.

IN ADDITION TO THE IMPOSSIBLE TIME FRAME, THE BILLS GIVE BLUE CROSS THE AUTOMATIC RIGHT TO RAISE RATES IN THE AMOUNT OF ITS PROJECTED INCREASE IN CLAIMS COSTS. THIS MEANS THAT ANY BLUE CROSS RATE HIKES BASED ON PROJECTED CLAIMS COSTS TRENDS WOULD BE FREE FROM ATTORNEY GENERAL OVERSIGHT AND RATE HEARINGS. THIS IS A BAD IDEA FOR SEVERAL REASONS. FIRST, A PARTICULAR INDIVIDUAL PLAN OR EVEN BUSINESS LINE REPRESENTS ONLY A SMALL FRACTION OF BLUE CROSS' TOTAL BUSINESS. AUTOMATIC RATE INCREASES FOR PROJECTED CLAIMS COSTS IGNORE THE OVERALL PROFITABILITY OF BLUE CROSS AND THE UNIQUE SYSTEM UNDER WHICH IT OPERATES. FOR EXAMPLE, EVEN IF BLUE CROSS MADE $1 BILLION IN A GIVEN YEAR FROM ITS OTHER BUSINESS LINES, ITS INVESTMENTS, ITS TAX EXEMPTION, AND ITS SUBSIDIARY OPERATIONS, BLUE CROSS COULD STILL RAISE RATES ON A SPECIFIC GROUP OF INDIVIDUAL CUSTOMERS BY 50% IF THAT

REPRESENTED THE PROJECTED INCREASE IN CLAIMS COSTS. SECOND, AUTOMATIC RATE INCREASES CREATE A DISINCENTIVE FOR BLUE CROSS TO MANAGE AND CONTROL THE HEALTH CARE COSTS OF ITS SUBSCRIBERS. AS HEALTH CARE COSTS CONTINUE TO ESCALATE AND COST MANAGEMENT IS AT THE FOREFRONT OF EVERY POLICYMAKER'S AGENDA, THIS WOULD BE A HUGE STEP BACKWARDS. THIRD, INSURANCE EXPERTS BELIEVE THAT SINCE THE BLUE CROSS PLANS SUBJECT TO THIS AUTOMATIC INCREASE WILL HAVE RELATIVELY SMALL, FIXED MEMBERSHIPS, THEY WILL BE SUBJECT TO WILD FLUCTUATIONS IN CLAIMS COSTS. RATE INCREASES OF 100% OR MORE BASED ON PROJECTED CLAIMS COSTS WILL BE ENTIRELY POSSIBLE—WITH NO OPPORTUNITY FOR THE ATTORNEY GENERAL TO OBJECT. THE END RESULT IS THAT INSTEAD OF HAVING RATES SUBJECT TO STRICT OVERSIGHT, BLUE CROSS RATES WILL BE PLACED ON A COST-PLUS SYSTEM, A BUSINESS MODEL THAT WOULD BE THE ENVY OF ANY BUSINESS IN MICHIGAN.

MOREOVER, AS IF THESE GIFTS TO BLUE CROSS WERE NOT ENOUGH, THE BILLS EXPRESSLY REMOVE THE ABILITY OF SUBSCRIBERS TO OBTAIN RATE RELIEF THROUGH SUBSIDIZATION FROM BLUE CROSS' NEARLY $3 BILLION IN SURPLUS, A SURPLUS THAT WAS ACCUMULATED FROM THE POCKETBOOKS OF BLUE CROSS SUBSCRIBERS AND THE RESIDENTS OF THIS STATE. EVEN THOUGH THE SURPLUS FAR EXCEEDS THE STATUTORY MINIMUM BY MORE THAN THREE-FOLD, THE BILLS PROTECT THESE

ACCUMULATED PROFITS AND ALLOW BLUE CROSS TO SPEND IT ON PREDATORY COMPETITIVE PRACTICES, EMPIRE BUILDING, AND EXECUTIVE PERKS RATHER THAN PROVIDING ACCCESSIBLE AND AFFORDABLE HEALTH CARE TO MICHIGAN CITIZENS. BCBSM'S FAILED ATTEMPT TO ACQUIRE PHP HERE IN LANSING IS JUST THE MOST RECENT EXAMPLE OF THE EXTENT OF DOMINACE BLUE CROSS SEEKS AND WHICH, BUT FOR THE OPPOSITION OF THE ATTORNEY GENERAL AND THE U.S. JUSTICE DEPARTMENT, WOULD MOST CERTAINLY HAVE SUCCEEDED.

MAKE HEALTH CARE UNAFFORDABLE AND PUNISH THE OLD AND SICK

EARLIER I SAID THAT THESE BILLS MAKE HEALTH CARE UNAFFORDABLE AND PUNISH THE OLD AND SICK. HOW IS THIS POSSIBLE WHEN THE BILLS' INTENDED PURPOSE IS TO MAKE HEALTH CARE AFFORDABLE AND TO HELP MICHIGAN CITIZENS? THE ANSWER IS THAT THE BILLS PUT BLUE CROSS' PROFIT OVER PEOPLE.

IN ADDITION TO ELIMINATING ATTORNEY GENERAL OVERSIGHT OF BLUE CROSS RATE INCREASES, THE BILLS REMOVE COMMUNITY RATING PROTECTIONS FOR THE SICK AND THE OLD. CURRENTLY, BLUE CROSS MUST CHARGE THE SAME PREMIUM WHETHER A SUBSCRIBER IS HEALTHY OR SICK, YOUNG OR OLD. UNDER COMMUNITY RATING, ALL SUBSCRIBERS ARE CHARGED THE SAME RATE WITHOUT REGARD TO HEALTH STATUS, AGE, OR

WHERE THE PERSON HAPPENS TO LIVE. COMMUNITY RATING ALLOWS BLUE CROSS TO SPREAD RISKS AMONG ALL SUBSCRIBERS, ENSURING THAT PEOPLE MOST IN NEED OF HEALTH INSURANCE—GENERALLY PEOPLE WHO HAVE HEALTH CONDITIONS AND ARE OLDER—ARE NOT DENIED COVERAGE BECAUSE IT IS PROHIBITIVELY EXPENSIVE. COMMUNITY RATING IS CONSISTENT WITH BLUE CROSS' NON-PROFIT MISSION AND OBLIGATION TO PROVIDE ACCESSIBLE, AFFORDABLE COVERAGE TO ALL MICHIGAN RESIDENTS, PARTICULARLY THE MOST VULNERABLE.

THESE BILLS ALLOW BLUE CROSS TO ABANDON COMMUNITY RATING FOR ALL OF ITS NEWER POLICIES. THIS MEANS THAT FOR THE FIRST TIME EVER, BLUE CROSS CAN CHARGE SUBSCRIBERS MORE BASED ON A PERSON'S AGE, HEALTH, WHERE THE PERSON LIVES, AND ANY OTHER RATING FACTOR THAT COMMERCIAL INSURANCE COMPANIES USE. IF THESE RATING FACTORS SUPPORT CHARGING SOMEONE 10 TIMES MORE THAN AN AVERAGE PERSON, THE CUSTOMER MUST PAY THIS AMOUNT INSTEAD OF THE UNIFORM, SAME-FOR-EVERYONE COMMUNITY RATED AMOUNT. UNDER THIS EXAMPLE, THE CUSTOMER WHO IS NOW CHARGED $400 A MONTH UNDER COMMUNITY RATING COULD SEE HIS RATES JUMP TO AS MUCH AS $4000 A MONTH. EVEN UNDER THE STANDARD OR ENHANCED GUARANTEE ISSUE PLANS, THE BILLS ALLOW BLUE CROSS TO CHARGE 4 TIMES MORE FOR OLDER SUBSCRIBERS WITHOUT ANY QUESTION, PLUS TACK ON

ADDITIONAL SURCHARGES BASED ON GEOGRAPHY, TOBACCO USE, BODY MASS INDEX, AND OTHER BEHAVIORS.

THE BILLS ALSO SPECIFICALLY TARGET THE RATES PAID BY SENIOR MEDIGAP SUBSCRIBERS WHO EARN MORE THAN $32,000 A YEAR. THESE SENIORS GET A DOUBLE WHAMMY. NOT ONLY WILL THEY SEE HUGE RATE INCREASES BECAUSE OF THE AUTOMATIC ENTITLEMENT TO PROJECTED INCREASES IN CLAIMS COSTS—WITH NO POSSIBILITY OF ATTORNEY GENERAL OR OFIR REVIEW—BUT BLUE CROSS IS REQUIRED TO ELIMINATE AT LEAST TWO-THIRDS OF THE CURRENT STATUTORY SENIOR SUBSIDY THAT KEEPS THESE SUBSCRIBERS' RATES AFFORDABLE. IT IS THIS SENIOR SUBSIDY THAT THE ATTORNEY GENERAL FOUGHT HARD FOR LAST YEAR AND THAT HELPED REDUCE BLUE CROSS' REQUESTED RATE INCREASE FROM 36% TO ONLY 3.8%. IF THESE BILLS BECOME LAW, THESE SENIORS WILL SEE ASTRONOMICAL RATE INCREASES WITH NO POSSIBILITY OF ATTORNEY GENERAL REVIEW.

AGAIN, HOW CAN BILLS THAT CREATE A "HEALTH CARE AFFORDABILITY FUND" MAKE HEALTH CARE UNAFFORDABLE? THE BILLS PURPORT TO REQUIRE BLUE CROSS TO DEPOSIT ITS TAX EXEMPTION INTO THE HEALTH CARE AFFORDABILITY FUND TO REDUCE THE COST OF PREMIUMS FOR LOW INCOME PEOPLE WHO SELECT THE STANDARD AND ENHANCED GUARANTEE ISSUE PLANS. BUT READ THE FINE PRINT! AFTER A YEAR OF HEARINGS AND

INPUT FROM VARIOUS INTEREST GROUPS, AT THE LAST MINUTE LANGUAGE WAS ADDED, CLEARLY AT THE BEHEST OF BLUE CROSS BLUE SHIELD, TO ALLOW BLUE CROSS TO OFFSET THIS $100 MILLION TAX EXEMPTION DEPOSIT BY THE AMOUNT OF THE MEDIGAP SUBSIDY, WHICH IN THE LAST RATE HEARING WAS OVER $180 MILLION. IN OTHER WORDS, THIS "EXCEPTION" COMPLETELY ELIMINATES ANY CONTRIBUTION BY BLUE CROSS TO THE HEALTH CARE AFFORDABILITY FUND. THIS IS PROBABLY ONE OF THE GREATEST RUSES TO BE PULLED ON THE PUBLIC IN YEARS.

<u>DANGEROUS MARKET REFORMS</u>

ON TOP OF ALL THE HARM TO THE PUBLIC THESE BILLS PRODUCE, THEY ALLOW BLUE CROSS TO EXPAND ITS ALREADY DOMINANT MARKET POSITION AND REDUCE OR ELIMINATE COMPETITION IN THE STATE—THUS FURTHER INCREASING HEALTH CARE COSTS FOR MICHIGAN CITIZENS.

HOW IS THIS DONE? THE BILLS CONTINUE BLUE CROSS' TAX EXEMPT ADVANTAGE, WHICH COMES AT A GREAT COST TO MICHIGAN CITIZENS. AT THE SAME TIME, THEY ALLOW BLUE CROSS TO ACT LIKE A COMMERICIAL INSURANCE COMPANY FREE TO RAISE RATES WITHOUT OVERSIGHT, FREE TO CHARGE SUBSCRIBERS MORE BASED ON THEIR HEALTH, AGE, GEOGRAPHY, AND OTHER CHARACTERISTICS, AND FREE TO SHED ITS INSURER OF LAST RESORT OBLIGATION YET RETAIN THE TAX EXEMPTION

THAT WAS GIVEN TO SHOULDER THAT BURDEN. EVEN THOUGH THE BILLS ALLOW BLUE CROSS TO KEEP THE TAX EXEMPTION THAT IT EARNS BY BEING OUR STATE'S INSURER OF LAST RESORT, BLUE CROSS WILL BE ABLE TO SHED ITS SICKER, OLDER, AND HIGHER COST SUBSCRIBERS TO THE NEW STANDARD AND ENHANCED GUARANTEED ISSUE PLANS. IN ADDITION, AS SENATOR GEORGE RECOGNIZED AT A HEARING BEFORE THIS COMMITTEE ON MAY 5, THE NEW FEDERAL LEGISLATION ALSO COMPLETELY ELIMINATES BLUE CROSS' INSURER OF LAST RESORT STATUS. UNDER THE FEDERAL LAW, A TEMPORARY HIGH-RISK POOL IS CREATED AND IN 2014, EVERY INSURANCE CARRIER MUST GUARANTEE ISSUE TO ANYONE WHO APPLIES. THIS USED TO BE ONLY BLUE CROSS' BURDEN IN MICHIGAN, AND IT IS THE VERY BURDEN THAT EARNS BLUE CROSS ITS STATE AND LOCAL TAX EXEMPTION. FREE OF THE OBLIGATIONS AND BURDENS OF A CHARITABLE AND BENEVOLENT INSTITUTION, BLUE CROSS WILL BE ABLE TO LEVERAGE ITS TAX EXEMPT STATUS AND 70% MARKET SHARE TO CRUSH ANY EXISTING COMPETITION IN THE STATE. AND WITHOUT COMPETITION OR ANY STATE OVERSIGHT, BLUE CROSS WILL HAVE THE ABILITY TO RAISE RATES WITHOUT LIMITS.

<u>WAIT AND SEE WITH NEW FEDERAL HEALTH CARE LEGISLATION</u>

AS I STATED EARLIER, THE MAJORITY OF BENEFITS IN THESE BILLS ARE ALREADY PROVIDED IN THE RECENTLY ENACTED FEDERAL HEALTH CARE LEGISLATION. THUS, THE COST/BENEFIT ANALYSIS OF THESE BILLS IS THAT MANY MICHIGAN CITIZENS, PARTICULARLY THE MOST VULNERABLE, WILL PAY AN ADDITIONAL EXHORBITANT COST IN THE FORM OF HIGHER PREMIUMS WHILE GETTING NO BENEFIT IN RETURN.

IN ADDITION, THERE HAS BEEN NO COMPREHENSIVE ANALYSIS OF ALL THE WAYS THAT THESE BILLS CONFLICT WITH THE NEW FEDERAL LAW. AS IT STANDS NOW, THE BILLS ARE AT BEST DUPLICATIVE AND COULD MAKE MICHIGAN CITIZENS PAY TWICE FOR THE SAME BENEFITS. THESE BILLS MAY EVEN PREVENT MICHIGAN CITIZENS FROM PARTICIPATING IN SOME OF THE FEDERAL HEALTH CARE PROGRAMS. IT WAS RECENTLY REPORTED THAT PEOPLE IN 35 STATES THAT HAVE HIGH RISK POOLS (INSTEAD OF AN INSURER OF LAST RESORT LIKE MICHIGAN) WILL BE UNABLE TO BENEFIT FROM THE FEDERAL HIGH-RISK POOL PROGRAM AND MAY BE INELIGIBLE FOR FEDERAL SUBSIDIES BECAUSE OF CERTAIN REQUIREMENTS IN THE FEDERAL PROGRAM THAT CONFLICT WITH THE STATE-RUN RISK POOLS.

<u>BLUE CROSS "DEATH SPIRAL" ARGUMENTS</u>

THE LAST TIME I TESTIFIED ABOUT INDIVIDUAL MARKET REFORM LEGISLATION, BLUE CROSS CLAIMED THAT IT WAS HEADING TOWARD A "DEATH SPIRAL" IN THE INDIVIDUAL MARKET AND THAT DRASTIC CHANGES WERE NEEDED IMMEDIATELY. ALMOST THREE YEARS LATER, WE KNOW THAT THESE CLAIMS WERE HYPERBOLE AND NEVER MATERIALIZED. THESE CLAIMS, AND THE BLUE CROSS FRIENDLY CHANGES IN THESE BILLS, WERE DRIVEN BY THE ALLEGED LOSSES THAT BLUE CROSS WAS EXPERIENCING AS OUR STATE'S INSURER OF LAST RESORT. NOW, HOWEVER, THE FEDERAL LAW HAS LARGELY ADDRESSED THESE CONCERNS.

AS THIS COMMITTEE LEARNED AT THE MAY 5 HEARING, THE FEDERAL LAW ESTABLISHES A TEMPORARY HIGH-RISK POOL THAT BEGINS OPERATING ON JULY 1. UNDER THE FEDERAL PROGRAM, MICHIGAN HAS ELECTED TO CONTRACT WITH A CARRIER, UNDOUBTEDLY BLUE CROSS, TO PROVIDE SUBSIDIZED COVERAGE TO MICHIGAN'S ELIGIBLE HIGH-RISK UNINSUREDS. MICHIGAN WILL RECEIVE ABOUT $140 MILLION UNDER THIS FEDERAL PROGRAM OVER THE NEXT 3 YEARS, WHICH IT WILL IN TURN PAY OVER TO BLUE CROSS AS THE STATE'S "HIGH-RISK POOL SUBCONTRACTOR" IN ORDER TO SUBSIDIZE THE PREMIUMS OF ANY NEW "HIGH-RISK" SUBSCRIBERS. THIS FEDERAL FUNDING THEREFORE REMOVES THE PRIMARY BLUE CROSS MOTIVATION FOR THESE BILLS: (1) MAKING HMOS AND COMMERCIAL INSURERS "SHARE THE PAIN" AS INSURER OF LAST RESORT (THROUGH THE GUARANTEED ISSUE PLANS); AND (2) REIMBURSING

BLUE CROSS' LOSSES FROM INSURING THESE HIGH-RISK INDIVIDUALS (THROUGH THE MICHIGAN CLAIMS FUND). NOW, BLUE CROSS WILL RECEIVE $140 MILLION FROM THE FEDERAL GOVERNMENT OVER THE NEXT 3 YEARS TO PAY THE CLAIMS OF THESE HIGH-RISK SUBSCRIBERS. THEN, IN 2014, ALL INSURANCE COMPANIES MUST ISSUE COVERAGE REGARDLESS OF HEALTH CONDITION, COMPLETELY RELIEVING BLUE CROSS' OBLIGATIONS AS MICHIGAN'S INSURER OF LAST RESORT. PROBLEM SOLVED. THESE BILLS ARE NO LONGER NECESSARY.

MOREOVER, ANTICIPATING THAT BLUE CROSS WILL CONTINUE TO CLAIM THAT IT NEEDS YOUR HELP DESPITE ITS MARKET DOMINANCE AND FINANCIALLY SOUND CONDITION, OUR OFFICE SENT A LETTER TO BLUE CROSS ON APRIL 16 ASKING IT TO PROVIDE INFORMATION ABOUT ITS FINANCES, EXECUTIVE SALARIES, AND ANTICIPATED EFFECTS OF THE NEW FEDERAL HEALTH CARE LAW. TO DATE, BLUE CROSS HAS NOT RESPONDED. JUST LIKE LAST TIME AROUND, ONLY BLUE CROSS HAS THE INFORMATION NEEDED TO DETERMINE ITS TRUE FINANCIAL CONDITION. AT A MINIMUM, THIS COMMITTEE SHOULD WAIT UNTIL BLUE CROSS HAS PROVIDED THE REQUESTED INFORMATION AND THEN CONFIRM ANY CLAIMS ABOUT FINANCIAL HARDSHIP BEFORE DRASTICALLY CHANGING THE RULES THAT HAVE APPLIED TO BLUE CROSS FOR OVER 30 YEARS.

THE BOTTOM LINE IS THAT BLUE CROSS IS NOT ONLY FINANCIALLY HEALTHY, IT IS THRIVING. WITH THE ENACTMENT OF THE FEDERAL HEALTH CARE REFORM LAW, THERE IS NO BASIS FOR IMPLEMENTING THE CHANGES IN THESE BILLS. THESE BILLS ACCOMPLISH ONE THING: THEY WILL ENRICH BLUE CROSS AT THE EXPENSE OF OUR SENIORS AND THE SICKEST CITIZENS IN OUR STATE, THE VERY PEOPLE BLUE CROSS WAS CREATED TO AND SHOULD BE SERVING. IF THESE BILLS WERE AN INSURANCE CLAIM FILED WITH BLUE CROSS, THEY WOULD BE REJECTED AS BEING UNNECESSARY. I URGE THIS COMMITTEE TO STAMP "REJECTED" ON THESE BILLS.